

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kristine K. Thomas,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-101-0334
Parcel No. 14223-06010-00000

On March 25, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Kristine K. Thomas, was self-represented and requested the appeal take place without a hearing. The City of Cedar Rapids Board of Review designated Attorney James H. Flitz as its legal representative. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Kristine K. Thomas, owner of residential property located at 1401 5th Ave SE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing her property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$62,897; representing \$5475 in land value and \$57,422 in dwelling value. This was a change from the 2009 assessment.

Thomas protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). Thomas also protested under section 441.37(1)(d) that there was an error in the assessment. However, this claim stated, "see

attached paper, comparable property assessed less.” The attachment claims the property was not equitably assessed, which is the same ground already raised under section 441.37(1)(a). The Board of Review reduced the assessed value to a total of \$55,000; representing \$5475 in land value and \$49,525 in dwelling value. The Board stated in part, “after consideration of all the data, the assessment was changed.”

Thomas then appeal to this Board reasserting the same grounds. Thomas seeks additional relief of \$9427 and values the property at \$45,573.

According to the property record card, the subject property consists of a two-story frame dwelling built in 1910 and having 1545 square feet of total finished above-grade living area, an unfinished attic, a full unfinished basement, a 105 square-foot enclosed porch, and a 190 square-foot open porch. It is in normal condition and is located on a 0.052 acre site. There is no garage.

Thomas stated in a letter that her property was assessed at a higher rate than the neighbors’ dwellings. Thomas notes the neighbors had a decrease in their tax assessments whereas her property assessment increased.

Thomas submitted forty-six equity comparables in the subject neighborhood and an adjoining neighborhood. It is unclear exactly what information was supplied by Thomas and what was created by the Board of Review. There are several charts in the record, some handwritten and others computer generated. The petition to the Board of Review had five properties listed as equity comparables and an attachment with a two-page handwritten list of additional equity comparables. The two-page list is titled “Tax Assessments Reduced” and has forty-six properties, which includes the five listed on the actual petition form. The chart includes columns for style, house address, land assessment/assessment per square foot, improvement assessment/assessment per square foot, total assessment, and “reduced.” The reduced column appears to be the total assessed dollar reduction from 2009 to 2010, based upon information found in the computer generated chart.

It also appears the computer generated chart was created by the assessor's office for the Board of Review. It is titled "46 Comparables Submitted By Petitioner – Equity." It has more detailed information including the GIS (parcel) number, the total living area (TLA), assessed value per TLA, condition, year built, and style code. The chart also breaks down the 2009 and 2010 assessments based upon land, improvement, and total, as well as, providing the total assessment dollar difference between 2009 and 2010. There is a handwritten note at the bottom of the chart that states the subject assessment increased \$7897 from 2009 to 2010 due to a 2007 Board of Review action that was removed for the 2010 assessment year for equity purposes.

Based upon the more detailed chart, the subject is assessed at normal condition compared to the properties submitted which range from very poor to very good. One property is rated as above normal condition and one is rated as very good. Twenty-four properties are normal condition similar to the subject, while twelve are below normal, and the remaining eight properties are rated poor, very poor, or "observed." The subject was built in 1910 and forty-five of the sales were built in the same era between 1895 and 1915.

The subject property has 1545 square feet of TLA. The properties submitted range from 572 square feet to 2464 square feet of TLA. Ten of the properties have a finished TLA within 10% (roughly 155 square feet) of the subject property. Of those ten properties, one is a commercial property and one is a duplex, further reducing the most comparable properties to a total of eight. Three of these twenty-four properties have a garage.

The remaining eight properties have a total assessment per square foot ranging from \$23.73 to \$42.36. The median is \$28.70 compared to the subject property's total assessment per square foot of \$35.60. While the subject property is above the median, it is within the range of values; and we note that all of the seven of the eight properties are inferior in condition. Additionally, there is no

comparison made by Thomas between the market value of the properties to their assessments to determine a ratio analysis.

The Board of Review submitted eight comparables for equity comparison. All of them are two-story residential properties in the subject's neighborhood, all are similar size, age, and all are rated in normal condition similar to the subject. One of these eight properties has a one-car detached garage. The eight comparables range in total assessed value per square foot from \$40.93 to \$46.39. The median is \$43.37 compared to the subject property's total assessed value per square foot of \$35.60. We find that the eight properties submitted by the Board of Review are the most similar in style, size, location, and condition to the subject property. However, like Thomas, the Board of Review did not make a comparison between the market value of the properties to their assessment to establish a ratio and we therefore find the analysis to be incomplete for an equity claim.

Thomas also submitted a hand-written list of fifteen comparable sales for consideration. The list is titled "Houses sold for less than assessment 231." The list includes the property street address, sale price, and assessment. Sales dates are not provided and it is assumed the 2010 assessment is listed. Again, the assessor provided the Board of Review a more detailed chart of Thomas' market comparables, providing the GIS number, street address, assessments, sale dates and prices, TLA, condition, year built, and style. We note for a second time, Thomas used sales that range in condition of poor to very good, sales significantly smaller or larger than the subject property, and one sale that is a multi-family conversion. Additionally, we note that ten of the fifteen market comparables submitted by Thomas sold in 2008. This Board finds it hard to believe that more recent sales were not available. As such, we do not find 2008 sales to be reliable in determining a 2010 value.

Of the five 2009 sales, one was a two-family conversion and not considered comparable. Considering only the four, single-family 2009 sales the unadjusted sale prices range from \$33,801 to \$84,000. The unadjusted sale price per square foot ranges from \$34.77 to \$53.85, with a median of

\$45.70. We note that three of the four comparables have above normal condition ratings and one is rated as below normal. Considering the unadjusted median price per square foot of all four sales, the subject property would have a value of roughly \$70,600 (1545 square feet X \$45.70 median price per square foot). This data does not support a claim of over-assessment.

The Board of Review submitted four properties as market comparables. Two sold in 2008 and two sold in 2009. Again, we do not believe that more recent sales would not be available for analysis for a 2010 assessment value. The two unadjusted 2009 sales offered by the Board of Review indicate a sales price per square foot range of \$46.00 to \$47.29, with a median of \$46.65 which further supports the previous analysis establishing the subject property is not over-assessed.

Reviewing all the evidence, we find the preponderance of evidence does not support Thomas' contention the subject property is inequitably assessed or that the property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd. 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Striver*, 257 Iowa 575, 133 N.W.2d 709 (1965.) The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion that Thomas failed to prove by a preponderance of the evidence that her assessment was inequitable.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Thomas failed to prove by a preponderance of evidence that the subject property is assessed for more than authorized by law. To the contrary, the sales data of the most recent sales submitted by Thomas, and the Board of Review indicate the property is not over-assessed.

Viewing the record as a whole, we determine that the preponderance of the evidence did not support Thomas' claims. Therefore, we affirm the Thomas property assessment as determined by the

Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$55,000.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 29 day of June 2011.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Copies to:

Kristine K. Thomas
1612 Bever Avenue, SE
Cedar Rapids, IA 52402
APPELLANT

James H. Flitz
3851 River Ridge Dr., NE
Cedar Rapids, IA 52402
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-29</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	